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PATENT

Serial No. 09/867,803

Attorney Docket No. 1005-006

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Lawrence J. Choi et al.  
Serial No. : 09/867,803  
Filed : 31 May 2001  
For : METHOD AND SYSTEM FOR CLUSTERING  
OPTIMIZATION AND APPLICATIONS  
Art Unit : 2177  
Examiner : Khanh B. Pham

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## DECLARATION UNDER 37 C.F.R. § 1.132

Sir:

I, Dr. Bo Honore, a citizen of Denmark and permanent resident of the United States, whose full post office address is Department of Economics, Princeton University, Princeton, NJ 08544-1021, declare as follows under penalty of perjury:

**Background**

1. I hold a Ph.D. degree in Economics the University of Chicago awarded in 1987.
2. I am currently a Professor of Economics at Princeton University.
3. I am the Director of the Gregory C. Chow Econometric Research Program at

PATENT  
Serial No. 09/867,803  
Attorney Docket No. 1005-006

Princeton University.

4. I have taught at Northwestern University, and have held Visiting Positions at the University of Chicago and the University of Copenhagen.
5. Since 1987, I have worked continually in the field of econometrics.
6. During my career, I have served on the editorial boards of *Econometrica*, *Journal of Econometrics*, *Review of Economic Studies*, *Econometric Theory*, and *Economic Letters*.
7. I am a Fellow of the Econometric Society.

**Review**

8. I have reviewed U.S. Patent Application Serial No. 09/867,803 ("the present application").
9. I know what one of ordinary skill in the art of the present application would have known on the priority date claimed by the present application (31 January 2001).
10. My statements made herein are made solely from the perspective of one of ordinary skill in the art as of 31 January 2001.
11. I have reviewed the Office Action ("the Office Action") regarding U.S. Patent Application Serial No. 09/867,803 dated 28 June 2006.
12. The Office Action asserts, at page 5, "Claims 1, 3-6 contain the limitation 'calculating a percent of proxy values for the plurality of variables that equals a mode

**PATENT**  
**Serial No. 09/867,803**  
**Attorney Docket No. 1005-006**

of that observation's corresponding cluster's proxy values for the corresponding variables' which was not described in the specification in such a way as to enable one skill in the art to which it pertains, or with which it is most nearly connected, to make and/or use of the invention."

13. That assertion in the Official Action is factually incorrect in view of the state of the econometrics art as of 31 January 2001.
14. Specifically, one having ordinary skill in the art would have interpreted the term "mode" to mean a "value or item occurring most frequently in a series of observations or statistical data". This is a well-known definition, and matches the definition provided in American Heritage College Dictionary, Third Edition.
15. One having ordinary skill in the art of econometrics would have had at least one undergraduate level statistics course. The undergraduate statistics course would have included instructions regarding how to determine a mode of a set of data. The undergraduate statistics course would have included instructions regarding how to determine a percentage.
16. One having ordinary skill in the art would have been able, based upon knowledge possessed from the undergraduate statistics course, in "calculating" the "mode of that observation's corresponding cluster's proxy values for the corresponding variables".
17. One having ordinary skill in the art would have been able, based upon knowledge possessed from the undergraduate statistics course, to "calculat[e]" "proxy values for

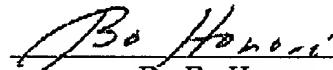
**PATENT**  
**Serial No. 09/867,803**  
**Attorney Docket No. 1005-006**

the plurality of variables that equals" the "mode".

18. One having ordinary skill in the art would have been able, based upon knowledge possessed from the undergraduate statistics course, to "calculat[e]" "a percent of proxy values for the plurality of variables that equals" the "mode".
19. Thus, one having ordinary skill in the art would have been able to make and use the claimed subject matter of each of claims 1 and 3-6 without undue experimentation.

I further declare that all statements made herein of my own knowledge are true and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed this 30 day of October 2007

  
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Dr. Bo Honore